

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

LESLIE MCGINNIS,

Plaintiff,

Case No. 16-cv-13461

v.

Honorable Thomas L. Ludington

HUQ, et al,

Defendants.

/

**ORDER CONSTRUING LETTER AS MOTION FOR EXTENSION, DENYING
MOTION, ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, AND DISMISSING
COMPLAINT**

On September 23, 2016, Plaintiff Leslie McGinnis filed a complaint asserting deliberate indifference and excessive force claims against Defendants, staff members at the Wayne County Jail. ECF No. 1. McGinnis is currently incarcerated and is proceeding pro se. On January 3, 2017, this case was referred to Magistrate Judge David R. Grand. ECF No. 9. Defendants filed a motion for summary judgment on December 12, 2017. On April 30, 2018, Judge Grand issued a report recommending that the motion for summary judgment be granted and the complaint dismissed. ECF No. 68. On May 21, 2018, the Court received a letter from McGinnis (attached) which was dated May 16, 2018. In the letter, McGinnis requested a sixty day extension of the deadline to object to the report and recommendation. He explained that he has “had problems accessing the library” and computer. ECF No. 70. The Court construed the letter as a request for an extension of time to object to the report and recommendation and granted it in part. The Court reasoned: “A thirty day extension will be sufficient for McGinnis to evaluate the report and recommendation and determine whether any specific and palpable errors are contained within.” *Id.*

Now, McGinnis has filed another letter seeking an extension of time. ECF No. 71. In the letter, he indicates that the prison library has delayed in providing him copies of his pleadings, which McGinnis wishes “to forward to the Court and Defendants.” *Id.* He requests another extension of time while he waits for those copies. It is unclear whether the “pleadings” McGinnis refers to in the present letter are objections or something else. Regardless, McGinnis has not explained 1) why he could not prepare copies himself or 2) why he could not submit the original (at the deadline) instead of waiting for copies. Accordingly, the request for an extension will be denied. The report and recommendation has now been pending for almost two months. The Court’s review of Judge Grand’s report and recommendation confirms it to be well-reasoned, and McGinnis has not identified any errors, palpable or otherwise, in the time it has been pending. The Court has already provided McGinnis one extension of time, and further extensions would unduly delay the resolution of this action. Accordingly, the request for a second extension will be denied.

Although the Magistrate Judge’s report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Petitioner nor Respondent filed any objections. The election not to file objections to the Magistrate Judge’s report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that Plaintiff McGinnis’s June 21, 2018, letter is **CONSTRUED** as a motion for an extension of time and **DENIED**.

It is further **ORDERED** that the report and recommendation, ECF No. 68, is **ADOPTED**.

It is further **ORDERED** that Defendants’ motion for summary judgment, ECF No. 48, is **GRANTED**.

It is further **ORDERED** that the complaint, ECF No. 1, is **DISMISSED**.

Dated: June 28, 2018

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 28, 2018.

s/Kelly Winslow
KELLY WINSLOW, Case Manager